

BEFORE THE
NEW YORK STATE
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission)	Case Number: 20-G-0101
as to the Rates, Charges, Rules and)	
Regulations of Corning Natural Gas)	
Corporation for Gas Service.)	
_____)	

REBUTTAL TESTIMONY TESTIMONY OF BOB WYMAN

July 24, 2020

1 Q. Please state your name.

2 A. Bob Wyman

3 Q. Are you the Bob Wyman who previously submitted direct testimony in this case?

4 A. Yes I am.

5 Q. What is the purpose of your rebuttal testimony?

6 A. I wish to rebut the Staff Infrastructure and Operations Panel testimony that opposes
7 the Company's proposed acceleration of cost recovery for gas assets.

8 **Rebuttal**

9 Q. What had the Company proposed for cost recovery of gas assets?

10 A. In the testimony of Firouzeh Sarhangi, CFO of the Company, and elsewhere, the
11 Company recognized that:

12 "New York State passed the CLCPA that mandates reduced greenhouse gas
13 emissions to 60% of 1990 levels by 2030, and 15% of 1990 levels by 2050,
14 with the remaining emission reduction achieved by controlled offsets. ...
15 These climate change and greenhouse gas initiatives will impact the Com-
16 pany's customer base over time." (See Page FS-6.)

17 "As the CLCPA takes effect, [gas sales] volumes will be reduced and rate
18 base should decline in parallel." (See Page FS-5.)

19 Given this, the Company observes that:

20 "It is imperative that depreciable lives are reconciled with the expectations
21 of the CLCPA in this case, rather than delaying such action. First, nominal
22 gas commodity prices are low, so consumer impacts will be mitigated. Sec-
23 ond, it is important to stabilize/reduce rate base while the Company's cus-

1 tomer count remains high. Third, it is confiscatory to mandate large capi-
2 tal expenditures and not provide depreciable lives consistent with CLCPA."
3 (See Page FS-5.)

4 Given this context, the Company proposed:

5 "As a consequence of these impacts of the CLCPA, we are proposing that
6 the service lives of the Company's fixed assets be reduced to 30 years for
7 purposes of calculating depreciation expense." (See Page FS-6.)

8 **Q.** What else has the Company proposed for cost recovery?

9 **A.** In the untranscribed session following the Procedural Conference for this case, the
10 Company verbally expressed their intent to adjust the average service life of assets
11 installed in the future so that no assets would have a service life expected to extend
12 beyond 2050. Given this verbal commitment, my expectation is that assets installed
13 in 2021 would be assigned an average service life of 29 years, assets installed in 2022
14 would be assigned an average service life of 28 years, etc.

15 The intent of the proposal appears to be to ensure that cost recovery of gas assets
16 is complete prior to 2050, the year in which the CLCPA requires that CO₂ emissions
17 must be reduced to no more than 15% of the 1990 emissions level.

18 In making this proposal, the Company is acting responsibly and in support of both
19 the spirit and the intent of the CLCPA.

20 **Q.** How does Staff's SIOP testimony object to the Company's proposal?

21 **A.** On page 21 of the SIOP testimony, the panel states:

22 "We believe it is premature to make any major change to the average ser-
23 vice lives over which gas assets are depreciated, other than LPP, due to the
24 potential for large bill impacts to customers and the uncertainty regarding
25 how CLCPA will be implemented."

1 Q. When does Staff propose that this issue be addressed?

2 A. On pages 21 and 22 of the SIOP testimony, it appears that Staff proposes that the
3 Company wait until after the New York Climate Action Council has completed prepa-
4 ration of a scoping plan before the Company addresses the issue of cost recovery.
5 They say:

6 "the CLCPA's implementation process requires that the New York Climate
7 Action Council prepare a scoping plan to achieve the goals of the CLCPA.
8 That scoping plan is expected two years after the effective date of the
9 CLCPA, which is in July 2021, so at this time, we do not know what the scop-
10 ing plan will recommend regarding the beneficial electrification of space
11 and water heating (CLCPA §75-0103(13)).

12 Q. Is Staff's concern for "bill impacts" reasonable?

13 A. Of course. We should always be concerned with the timing and scale of bill impacts.
14 However, Staff, and all parties to this rate case, should be concerned not only for bill
15 impacts in the short-term, but also for the bill impacts that we are deferring to future
16 rate cases. It is foolish and unwise to "kick the can down the road" when it is highly
17 likely that doing so will create a problem much greater than that which avoided. Pro-
18 viding a minor relief to today's ratepayers cannot be considered the right thing to do
19 if doing so creates the risk of imposing a crushing burden on future ratepayers.

20 I recognize that acceptance of the Company's proposal will have an immediate, sig-
21 nificant bill impact. For instance, the Company states:

22 "Shortened effective service lives resulting from meeting the requirements
23 of the CLCPA will require an accelerated schedule for recovery of deprecia-
24 tion expense. Consequently, depreciation expense will increase \$3,065,97
25 over the amount currently in rates (\$2,021,432). **This represents approxi-**

1 **mately one-half of the requested Rate Year one rate increase."** (Emphasis
2 added.) (See Page FS-7.)

3 At any time, such a bill impact would be unfortunate. Today, given the pressures
4 imposed by the impact of the COVID-19 pandemic, it is particularly important to
5 avoid unnecessary bill impacts. However, we must also recognize that in this case,
6 any deferral of costs to future years will require even greater bill impacts in those
7 years.

8 As stated in my testimony, I believe that the appropriate response at this point is not
9 to simply ignore the problem and wait until some future rate case to address it, but
10 rather to modify the Company's proposal to phase in the accelerated depreciation
11 over the three years proposed for this rate case. Doing so would lessen the immediate
12 bill impact, particularly for customers who, in Year 1, are likely to be experiencing
13 the full weight of COVID-19's impact. Such a phase-in would also lessen the long-
14 term bill impact, although those long-term impacts would still be greater than if the
15 Company's proposal were accepted without modification.

16 It should, of course, be recognized that any deferral of the proposed acceleration will
17 result in higher costs to ratepayers since, once the acceleration actually begins, there
18 will be even less time to recover the costs. Nonetheless, the needs of ratepayers are
19 probably best considered by phasing in the acceleration over the next three years,
20 even though doing so will result in higher costs to ratepayers over time.

21 **Q.** Is Staff reasonable when they propose waiting until the New York Climate Action
22 Council has issued their scoping report?

23 **A.** No. We have waited long enough and can wait no longer. Waiting simply means more
24 inaction on an essential measure that should have been addressed as many as eleven

1 years ago.

2 Although much is said about the CLCPA, it must be remembered that the CLCPA's
3 goal of an 85% reduction in CO₂ emissions by 2050 is a very minor modification to
4 what has been New York State policy for almost eleven years.

5 On August 6, 2009, Gov. Patterson issued Executive Order 24 "Establishing a Goal to
6 Reduce Greenhouse Gas Emissions Eighty Percent by the Year 2050 and Preparing a
7 Climate Action Plan."¹ Thus, Corning Gas, and all other gas utilities in New York State,
8 have been on notice for the past 11 years that dramatic reductions in CO₂ emissions
9 would be required before 2050. Given that it is well-known to all, including to the
10 gas utilities, that the use of natural gas in New York is responsible for a substantial
11 proportion of the State's CO₂ emissions, and that the State's goal cannot be achieved
12 without a significant reduction in emissions from gas use, there can have been no
13 question in anyone's mind that emissions from natural gas burning would have to be
14 reduced. Given also that no substantive proposal has been made to decarbonize the
15 natural gas system, it has been clear, for at least 11 years, that the volume of gas de-
16 livered would have to be reduced. Anyone even trivially familiar with the process of
17 utility cost allocation will have recognized that a reduction in volume, without a cor-
18 responding decrease in the ratebase, will inevitably lead to increased rates. It is also
19 well-known that if service lives are over-estimated, stranded assets will accumulate.

20 Since 2009, when Executive Order 24 was issued, there have been many panels, coun-
21 cils, study groups, planning groups, etc. that have considered the means by which
22 emissions might be reduced to no more than either 20% or 15% of 1990 emissions.
23 However, none of these groups have addressed the issue of gas utility cost recovery or

¹<https://govt.westlaw.com/nycrr/Document/Ie5b689c1ac5011de8c2ab6ae83388a1c>

1 the inevitable need to accelerate cost recovery to avoid stranded assets, even though
2 the need to do so has been clear. In fact, Corning Gas' proposed acceleration of cost
3 recovery is, to my knowledge, the first concrete proposal made by any utility or agency
4 to address this issue. With this history in mind, we simply cannot assume that the
5 New York Climate Action Council is any more likely than its many predecessors to
6 responsibly consider the issue of gas utility cost recovery. Thus, waiting another year
7 or more, in the hopes that this latest of many groups will opine on the subject, would
8 be irresponsible.

9 Q. If we do assume that the New York Climate Action Council will address the issue,
10 would it be responsible to wait?

11 A. No. The New York Climate Action Council is chartered to make recommendation
12 to "ensure" that the CLCPA's goals are achieved. One can assume that if, in fact, gas
13 utilities are taking responsible action that will lead to achievement of the goals, that
14 the Climate Action Council would find no need to speak on the subject, other than
15 potentially to commend the actions of utilities such as the Company.

16 In any case, the New York Climate Action Council will only make recommendations.
17 It does not have the authority to direct action. Thus, even if the Council does make
18 recommendations in this matter, we will then have to wait for some agency with au-
19 thority to take note of those recommendations and go through the process of defining
20 if they should be accepted and if or how they should be turned into policy or man-
21 dates. Given the normal pace of action, we should anticipate that it will take one
22 or more years after the scoping plan is issued before their recommendations result
23 in any substantive action. In the meantime, the depreciation deficiencies will have
24 accumulated and the bill impacts of addressing the problem will have grown.

25 Q. Is Staff's proposal to wait for the New York Climate Action Council in line with the

1 spirit of that council's purpose?

2 A. No. The New York Climate Action Council is intended to help ensure that the CLCPA's
3 goals are achieved. It is not intended to present a barrier or hindrance to efforts to
4 achieve those goals. To say that action must wait until the Council has prepared their
5 scoping report is to turn the Council into a barrier to achieving the State's goals. What
6 should be a benefit is thus turned into an obstacle.

7 Q. Do other stakeholders agree that Staff's objection to Corning Gas' proposal is ill-
8 founded?

9 A. Yes, it should be noted that NY-GEO,² NRDC, and the Sierra Club³ have filed com-
10 ments in this rate case which oppose Staff's objection to Corning Gas' proposed ac-
11 celeration of cost recovery.

12 In their comment letter, NY-GEO stated, in part:

13 "NY-GEO applauds Corning Gas Company executives for having the
14 prescience and courage to acknowledge the urgency and economic
15 outcomes/trade-offs of continuing with past depreciation practices in light
16 of the CLCPA greenhouse gas reduction targets. ... Staff's opinion to wait
17 for guidance from the Climate Action Council does not seem economi-
18 cally or environmentally prudent given the aggressive goals set forth in the
19 CLCPA. The CLCPA does not mandate waiting for the Climate Action Coun-
20 cil decisions to initiate innovative ideas to reduce gas consumption and
21 greenhouse gases. In fact, the Climate Action Council is currently looking
22 for innovative ideas from industry and others and could very likely adopt

²NY-GEO's 2020-07-14 comment letter: <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={EBCCCB79-2043-4AF4-BBA5-943632D75A21}>

³NRDC and Sierra Club's 2020-07-24 joint comment letter: <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={CBAAE5CB-3650-4581-874B-EA4541393368}>

1 accelerated depreciation as a credible method of achieving CLCPA goals."
2 NRDC and the Sierra Club stated, in part:
3 "We believe that DPS staff's concern that Corning's proposal is premature
4 is ill founded. Nothing in the CLCPA directs state agencies to delay action
5 on matters squarely within their jurisdiction that may affect achievement
6 of the statute's goals until after the Council approves its first scoping plan.
7 If that were the case, the Commission would logically have to suspend ac-
8 tion on a wide variety of other climate-related matters currently under con-
9 sideration in other active Commission proceedings."

10 **Q.** Does that conclude your rebuttal testimony in this case?

11 **A.** Yes.